

---

## Appropriations Committee

---

### HB 2270

**Brief Description:** Modifying sentencing laws related to property crimes and other crimes and implementing recommendations of the Washington state justice reinvestment task force.

**Sponsors:** Representative Hudgins.

#### Brief Summary of Bill

- Creates a new felony property offense sentencing grid with reduced standard ranges.
- Imposes 12 months of community custody for a felony property offense when the offender has an offender score of two or more.
- Limits the length of time the Department of Corrections (DOC) is authorized to supervise an offender on community custody to the duration ordered by the court or specified by statute.
- Authorizes the DOC to award positive achievement time to offenders who are in compliance with supervision terms, which may reduce their period of community supervision.
- Colocates the Sentencing Guidelines Commission (SGC) with the Caseload Forecast Council.
- Requires the SGC to review and report to the Legislature on: (1) property crime rates; (2) impacts on offenders sentenced under the new property crime grid; (3) recidivism rates; and (4) the law enforcement grant program
- Creates a law enforcement grant program administered by the Department of Commerce.

**Hearing Date:** 6/22/15

**Staff:** Yvonne Walker (786-7841) and Rachelle Harris (786-7137).

**Background:**

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

### Felony Sentencing.

A sentence imposed for a felony crime depends on the severity or seriousness level of the offense and the defendant's offender score. Felony crimes are separated into 16 different seriousness levels. The offender score may vary from zero to nine plus points depending on five factors: (1) the number of prior criminal convictions or juvenile dispositions; (2) the relationship between any prior offense and the current offense of conviction; (3) the presence of other current convictions; (4) the offender's community custody status at the time the crime was committed; and (5) the length of the offender's crime-free behavior between offenses.

The standard sentence range for any offense that is not a drug offense is established by referring to the standard sentencing grid. For each current offense, the intersection of the column defined by the offender score and the row defined by the offense seriousness level determines the standard sentence range. Below is the current sentencing grid for seriousness levels one through four.

| Serious Level | Offender Score |             |               |              |               |              |               |              |              |              |
|---------------|----------------|-------------|---------------|--------------|---------------|--------------|---------------|--------------|--------------|--------------|
|               | 0              | 1           | 2             | 3            | 4             | 5            | 6             | 7            | 8            | 9 or more    |
| 4             | 3-9 months     | 6-12 months | 12+-14 months | 13-17 months | 15-20 months  | 22-29 months | 33-43 months  | 43-57 months | 53-70 months | 63-84 months |
| 3             | 1-3 months     | 3-8 months  | 4-12 months   | 9-12 months  | 12+-16 months | 17-22 months | 22-29 months  | 33-43 months | 43-57 months | 51-68 months |
| 2             | 0-90 days      | 2-6 months  | 3-9 months    | 4-12 months  | 12+-14 months | 14-18 months | 17-22 months  | 22-29 months | 33-43 months | 43-57 months |
| 1             | 0-60 days      | 0-90 days   | 2-5 months    | 2-6 months   | 3-8 months    | 4-12 months  | 12+-14 months | 14-18 months | 17-22 months | 22-29 months |

Offenders convicted of the following categories of offenses may also receive a term of community custody as part of their sentence:

- sex offenses;
- violent offenses;
- crimes against persons;
- certain drug-related offenses;
- felony violation of Failure to Register as a Sex Offender;
- serious violent offenses; and
- Unlawful Possession of a Firearm where the offender is a criminal street gang member/ associate.

### Length of community custody.

A sentencing court imposing a term of community custody fixes the term according to statutory provisions. If an offender is sentenced to the custody of the DOC for a certain specified offense, the sentencing court must impose a fixed term of community custody. For example, an offender convicted of certain sex offenses or a serious violent offense must be sentenced to serve three years of community custody. For violent offenses not considered serious violent offenses, an offender must be sentenced to serve 18 months of community custody. For a number of other offenses, there is a required one-year period of community custody. If an offender is sentenced

to a term of confinement for one year or less for a certain offense (such as a sex or violent offense) then the court has discretion to impose up to one year of community custody. An offender may serve a longer period of community custody than was ordered, however, if the offender will be supervised by the DOC and earns early release credits for good behavior and good performance which are required to be converted by the DOC to additional community custody time. The DOC is not permitted to reduce the length of time of community custody based on good behavior of an offender while on community custody.

#### Sentencing Guidelines Commission.

The Sentencing Guidelines Commission (SGC) was created by the Legislature in 1981 as part of the Sentencing Reform Act. The SGC served as an independent body statutorily required to evaluate and monitor adult and juvenile sentencing policies and practices and make recommendations to the Governor and the Legislature, served as a clearinghouse and information center on adult and juvenile sentencing, and conducted ongoing research on sentencing and related issues.

The SGC consists of 20 voting members, 16 of whom are appointed by the Governor. The members include four superior court judges, two defense attorneys, two prosecutors, four citizens, the chief of a local law enforcement agency, one county elected official, one city elected official, and one administrator of juvenile court services. There are four ex-officio voting members: the Secretary of the DOC, the Director of the Office of Financial Management (OFM), the chair of the Indeterminate Sentence Review Board, and the Director for the Juvenile Rehabilitation Administration. Four legislators are appointed by the leadership of the House of Representatives and the Senate and serve as nonvoting members. The SGC was authorized to appoint research staff to accomplish the duties of the SGC and a full-time executive director whose salary was fixed by the Governor.

In 2011 (pursuant to enactment of Engrossed Substitute Senate Bill 5891) the SGC was reorganized and became an advisory agency, located within the OFM. The position of the executive director was eliminated. The Caseload Forecast Council (CFC) became: (1) the clearinghouse and information center for adult and juvenile sentencing; (2) responsible for annually producing a statistical summary of adult felony sentencing and juvenile dispositions; and (3) responsible for publishing and maintaining the adult felony sentencing manual. The DOC assumed full responsibility for administering the interstate compact for adult offender supervision in the state.

#### Department of Commerce.

The Office of Crime Victims Advocacy within the Department of Commerce (COM) administers grant funds for community programs working with crime victims and assists communities in planning and implementing services for crime victims.

#### **Summary of Bill:**

##### Felony Sentencing.

Most felony property offenses with a seriousness level of four and below are removed from the current seriousness level classifications and assigned a new seriousness level. A new sentencing grid is created with new, reduced standard ranges for those reclassified felony property offenses.

Offenders convicted of a property offense, who have an offender score of two or more will also receive 12 months of community custody as part of their sentence.

| Serious Level | Offender Score |             |             |               |               |               |               |               |                |                |
|---------------|----------------|-------------|-------------|---------------|---------------|---------------|---------------|---------------|----------------|----------------|
|               | 0              | 1           | 2           | 3             | 4             | 5             | 6             | 7             | 8              | 9 or more      |
| 4             | 15-180 days    | 30-240 days | 30-300 days | 12+-14 months | 12+-16 months | 14-18 months  | 16-24 months  | 24-30 months  | 30-36.5 months | 36.5-42 months |
| 3             | 10-90 days     | 15-180 days | 20-180 days | 30-240 days   | 30-300 days   | 12+-14 months | 12+-16 months | 14-18 months  | 16-24 months   | 24-30 months   |
| 2             | 3-90 days      | 10-120 days | 15-180 days | 20-180 days   | 30-240 days   | 30-300 days   | 12+-14 months | 12+-16 months | 14-18 months   | 16-20 months   |
| 1             | 3-60 days      | 3-90 days   | 10-120 days | 20-180 days   | 30-240 days   | 30-300 days   | 30-300 days   | 12+-14 months | 12+-16 months  | 14-18 months   |

The following felony property offenses are omitted from the newly created sentencing grid: Residential Burglary, Theft of Ammonia, and Theft of a Firearm. Therefore, sentencing for these offenses remains the same. Sentencing remains the same for all other felony offenses.

Length of community custody.

The length of time the DOC is authorized to supervise an offender on community custody is limited to the duration ordered pursuant to a sentencing alternative (terms are variable) or specified in statute (36, 18, or 12 months, depending on the type of crime as described above). The DOC is not authorized to supervise an offender for a period of community custody in excess of those periods, such as additional periods of earned early release converted to community custody. The DOC must award positive achievement time to offenders who are in compliance with supervision terms and are making progress toward the goals of their individualized supervision case plan. For each month of community custody served, offenders may earn positive achievement time of 15 days. The period of time the DOC is authorized to supervise an offender may be reduced by positive achievement time. The following offenders are not eligible to earn positive achievement time:

- offenders convicted of Rape in the First or Second Degree, Rape of a Child in the First Degree, Child Molestation in the First Degree, Rape of a Child in the Second Degree, Indecent Liberties by Forcible Compulsion, certain offenses committed with sexual motivation, attempts to commit any of these offenses, or offenders convicted of certain offenses who have a prior conviction for a sex offense other than failure to register;
- offenders convicted of Aggravated First Degree Murder;
- offenders granted a first time offender waiver, parenting sentencing alternative, drug offender sentencing alternative, or special sex offender sentencing alternative;
- offenders subject to the interstate compact for adult offender supervision;
- offenders identified by the DOC as dangerous mentally ill offenders;
- offenders who have indeterminate sentences and are subject to parole; and
- offenders serving community custody pursuant to early release for persons convicted of crimes prior to their eighteenth birthdays.

Sentencing Guidelines Commission.

The SGC must be colocated with the CFC and the CFC must provide administrative support services for the SGC. Two of the four superior court judges are removed from the SGC and three new members are added to the SGC: (1) a chief law enforcement officer; (2) the Chief Justice of the Washington Supreme Court or the Chief Justice's designee, as an ex-officio member; and (3) the Executive Director of the CFC or the executive director's designee, an ex-officio nonvoting member.

The SGC must work in conjunction with the CFC to review the following at least once per biennium:

- property crime rates;
- the impact on offender populations due to sentencing under the new property crime grid;
- recidivism rates;
- racial disproportionality impacts; and
- the effectiveness of the law enforcement grant programs created in the act.

Until January 2019, the SGC must report the results of the review to the Legislature no later than January 1 of each odd-numbered year.

#### Law Enforcement Grant.

The COM must establish a law enforcement grant program. Local law enforcement agencies must submit proposals to the COM that focus on increasing the capacity of the law enforcement agency to address property crime. The COM must use an advisory committee to evaluate grant applications and monitor the effectiveness of the grant projects. Preference must be given to grant applicants that can demonstrate a commitment to regional, multi-jurisdictional strategies, and that can clearly outline a comprehensive plan for municipalities to work with law enforcement, community-based organizations, and government agencies to address property crime. The grants are one-time grants but may be renewed for effective programs as determined by the COM.

#### Property Offense Supervision and Programs Account.

The Property Offense Supervision and Programs Account (Account) is created in the State Treasury. Money in the Account is to be used solely for community custody supervision of felony property offenders released from prison or jail, offender specific programming aimed at reducing reoffenses, and property crime reduction grants. Allocated funds must be used to supplement, not supplant, other federal, state, and local funds used for property offender supervision and programming. Moneys in the Account may be spent only after appropriation.

**Appropriation:** None.

**Fiscal Note:** Requested on June 19, 2015.

**Effective Date:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 3(4), relating to supervision for domestic violence offenders, and sections 3(8), 20, and 21, relating to positive achievement time, which take effect July 1, 2015.